

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 14,812

)

Appeal of )

)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying his application for General Assistance (GA) for dentures. The issue is whether the petitioner has an emergency medical need within the meaning of the pertinent regulations.

FINDINGS OF FACT

The petitioner applied for GA in late January, 1997. Hearings on the petitioner's appeal of the Department's denial of that application scheduled for February 12 and March 12, 1997, were continued at the petitioner's request. At a hearing on April 16, 1997, the petitioner produced two statements from a treating physician. The first, dated April 9, 1997, provides:

[Petitioner] is currently a patient at the Community Health Center. He was seen by me on 11/7/96 and again on 4/8/97. On both occasions I diagnosed [petitioner] with malnutrition and weight loss resulting from total dental extractions. I feel that [petitioner] has an emergency medical need, which, "...if not immediately ...treated could lead to disability..." (Bulletin No. 82-70, Sec. 2602) I am recommending an emergency treatment of a dietary/protein supplement, such as Ensure. [Petitioner] has exhausted all available income and resources and is unable to purchase a dietary supplement on his own.

According to your General Assistance Policy Bulletin No. 89-40F, Section 2622, Emergency Treatment is defined as "...Treatment shall be considered emergency treatment when delay in providing treatment would be contrary to the well being of the individual."

The second statement, dated April 14, 1997, was identical to the above, except that the physician added that he was also (i.e., in addition to "dietary/protein supplement") recommending "emergency treatment" of "full denture assistance".

At that hearing, however, the petitioner admitted that he had recently been found eligible for the Department's VHAP program, which might cover food supplements. The petitioner also stated that he had recently begun working, and had earned over \$500 in the last month. The petitioner agreed to a continuance of the matter to decide whether he wished to provide the Department with verification of his income.

A hearing scheduled for May 21, 1997, was continued at the petitioner's request.

At a hearing on June 25, 1997, the petitioner stated that he was not working, but was receiving unemployment compensation of \$52 a week. He also stated that his VHAP benefits had closed effective April 30, 1997, because of his failure to provide requested information regarding his income, and that he had voluntarily closed his food stamp benefits as of May 1, 1997. The petitioner was still requesting GA for dentures, but he had no further medical evidence other than the above statements from his doctor.

Based on the above statements from the petitioner's doctor it cannot be found that the petitioner has a continuing emergency need for both dentures and a dietary supplement. The petitioner's diagnosis in mid April was "malnutrition and weight loss". Since that time, the petitioner has had a steady (if limited) income and has eschewed other benefits that would help him to obtain food and health care. It appears he has been able to purchase an adequate diet. He has presented no evidence that there is any ongoing imminent threat to his health.

### ORDER

The Department's decision is affirmed.

### REASONS

The GA regulations at W.A.M. § 2600 provide that an able-bodied individual with no dependents can qualify for GA for medical services only if faced with a "catastrophic" emergency medical need. W.A.M. § 2602 defines such need as relief of "acute" pain or injury or "amelioration of illness, which if not immediately diagnosed and treated could lead to disability or death". <sup>(1)</sup>

In this case there is no evidence that the petitioner is currently facing such a need. Although he still needs dentures, he has not shown that the absence of dentition, in and of itself, poses an imminent threat to his health. <sup>(2)</sup> Therefore, the Department's decision is affirmed.

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1. WAM § 2622, the regulation cited by the petitioner's doctor (see supra), pertains only to GA applicants who, unlike the petitioner, meet the general eligibility provisions in § 2600 regarding income, dependents, or disability.
2. The petitioner is free to reapply for GA if and when he can document a current unmet catastrophic need.